U.S. Fish & Wildlife Service

CRITICAL HABITAT AND MILITARY LANDS

Critical Habitat

(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(I) essential to the conservation of the species and

(II) which may require special management

considerations or protection and

(ii) specific areas outside the geographic area occupied by the species at the time it is listed…, upon a determination by the Secretary that such areas are essential for the conservation of the species

Exclusions Based on the Definition

Some areas will be excluded because they are not appropriate habitat for the species -- they lack the essential features.

- eg. Areas of HCPs where development has been approved.

Exclusions Based on the Definition

Some areas will be excluded because they don’t need special management considerations

Special Management Considerations or Protections:

Special management is not required if adequate protections and management are already in place in the area -- but what is adequate?

Special Management Considerations

Existing Regulations -- "any methods or procedures useful in protecting physical and biological features of the environment for the conservation of listed species."

Special Management Considerations

Adequate special management is provided by a *legally operative plan* that addresses the maintenance and improvement of habitat important to the species and manages for the long-term conservation of the species

Special Management Criteria

THE PLAN MUST:

- Provide a conservation benefit to the species
- Provide assurances that the plan will be implemented
- Provide assurances that the conservation effort will be effective

CONSERVATION BENEFIT TO THE SPECIES

Examples:

- Increase species' population
- Protect, enhance or restore habitat
- Buffer protected areas
- Test or implement new conservation strategies

Assurances That Plan Will Be Implemented

- Plan must be funded
- Agency has the authority and ability to implement
- Necessary authorizations are obtained
- Implementation schedule provided

Assurances That the Effort Will Be Effective

Plan includes:

- Biological goals and objectives
- Performance measures
- Monitoring and adaptive management
- Progress reports
- Duration sufficient to achieve success

Integrated Natural Resource Management Plans and Critical Habitat

Military installations that have completed and approved INRMPs that address the needs of the species and meet the criteria generally do not meet the definition of critical habitat because they do not require additional special management

Examples Of Exclusions Based On Definition

MCAS Miramar

- California gnatcatcher, San Diego fairy shrimp

Fort Carson

- Mexican spotted owl

Vandenburg Air Force Base

- California red-legged frog

Section 4(b)(2)

…after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area… if he determines that the benefits …outweigh the benefits of specifying such area …, unless he determines, based on the best scientific and commercial data available, that the failure to designate …will result in the extinction of the species….

Exclusions Based on 4(b)(2)

4(b)(2) provides a **balancing test**

Balancing Test

May exclude areas if benefits of excluding outweigh the benefits of including as critical habitat

Factors considered:

- Economics
- Other relevant impacts: partnerships, national security, tribal relationships,etc.

Cannot result in extinction of the species

Examples of Exclusions under 4(b)(2)

MCB Pendleton

- California gnatcatcher, San Diego fairy shrimp, western snowy plover

Camp San Luis Obispo

- California red legged frog

Camp Parks

- California red-legged frog

CASE STUDIES

EXCLUSION BY DEFINITION

Case Study—Vandenburg Air Force Base

- Completed INRMP in 1997
- Includes conservation measures for red-legged frog
- Manages important wetland habitats
- Protects known frog sites
- Monitors species and conducts surveys

EXCLUSION UNDER SECTION 4(b)(2)

Case Study: Camp San Luis Obispo and Camp Parks

- Neither installation has completed an INRMP
- Proposed CH-90% of bases
- Benefits of including small since would consult under s7
- Benefits of excluding larger because seriously limit critical training